

California Victim Compensation and Government Claims Board
Open Meeting Minutes
May 17, 2012, Board Meeting

The California Victim Compensation and Government Claims Board (Board) convened its meeting in open session at the call of Leslie Lopez, Deputy Secretary and General Counsel, State and Consumer Services Agency, at 400 R Street, Sacramento, California, on Thursday, May 17, 2012, at 10:00 a.m. Also present were Board members Richard Chivaro, Chief Counsel, acting for and in the absence of John Chiang, Controller, and Michael Ramos, San Bernardino County District Attorney.

Board staff present included Executive Officer Julie Nauman and Chief Counsel Wayne Strumpfer.

Tisha Heard, Board Liaison, recorded the meeting.

The Board meeting commenced with the Pledge of Allegiance.

Item 1. Approval of Minutes of the April 19, 2012, Board Meeting

The Board voted to approve the minutes of the April 19, 2012, Board meeting.

Item 2. Public Comment

The Board opened the meeting for public comment. No public comment was given.

Item 3. Executive Officer's Statement

VCGCB Receives 2012 State Information Officers Council (SiOC) Awards

The SiOC, a not-for profit organization dedicated to providing support, education, information, networking, and other opportunities to the public information and communication professionals working for and with the State of California, held its an annual awards contest. Every year public and private professionals in journalism, photography, and media relations serve as judges who are charged with identifying the most honorable works and the professionals behind them. This year there were nearly 30 different categories varying from Best Press Release to Best Event.

The VCGCB's Public Affairs Team submitted three nominations in the Internet Communications category: Department or Agency Website; Internet Outreach, Blogs; and Social Media. The team was honored with two gold awards for the CalVCP Connection Blog and for Social Media. The team also received an honorable mention for Agency Website.

The Executive Officer congratulated the Public Affairs Team for their superior performance and thanked the team for their great work ensuring that the VCGCB has effective internal and external communications.

Victims' Rights Conference – Real Justice: Victims' Rights Delivered

On May 15, the Executive Officer attended the victims' rights conference cosponsored by the California District Attorneys Association and the California Crime Victims Assistance Association. The conference, held in Sacramento, was well attended by Governor Brown, Attorney General Kamala Harris, and Board member Ramos. Executive Officer Nauman reported that the conference was a great opportunity to come together and hear inspirational presentations and attend informative workshops on victim's rights and services.

Item 4. Contract Report

California Department of Corrections and Rehabilitation (CDCR)

CDCR provides assistance to the Board by tracking juvenile offenders who are incarcerated and on parole and collecting orders and fines that are owed to the Board. CDCR also provides discharged offender and parolee fines that are submitted to FTB for collection of outstanding order/fines owed to the Board. The interagency agreement in the amount of \$219,446.00 was amended to extend the term an additional three months, through September 30, 2013. An increase in funds was not required.

The Board voted to approve the contract with CDCR.

California Technology Agency (CTA)

CTA is the Board's network service provider for routine data processing services, materials and/or equipment, including the managed servers, internet routers. CTA provides access to statewide information technology shared services such as CA.Mail and access to CalSTARS, HRIS, and the CA portal. CTA also provides hosting of the VCGCB's internet page and houses the CaRES servers onsite. The interagency agreement in the amount of \$325,000 is a renewal of yearly services to the Board.

The Board voted to approve the contract with CTA.

Cyber Pro Systems, Inc. dba MDX/FIS (MDX)

MDX provides bill review and adjustment services in accordance with the Medicare and DentiCal Fee Schedule and applies other fee schedules as required by the Board. MDX will audit and review all bills and provide a batch summary report and monthly report to the Board. MDX will also be responsible for answering questions and resolving technical disputes raised by providers, victims, and CalVCP staff. The contract in the amount of \$596,000.00 can be renewed for a second and third year period, pursuant the provisions in the contract.

The Board voted to approve the contract with Cyber Pro Systems, Inc. dba MDX/FIS.

Procurement Transactions

Executive Officer Nauman explained that the VCGCB had solicitations out to bid and needed to encumber the funds before the end of the fiscal year. In the event there is a delay in the procurement process, Ms. Nauman asked the Board to delegate to her the authority for final approval of the contracts. She stated that she would report back all of the successful bidders at the August 16, 2012, Board meeting.

Further, Executive Officer Nauman provided the following summary of the contracts:

Internal Feasibility Study Report for the Court-Ordered Debt Application

The VCGCB is modifying the court-ordered debt (COD) application used by the Fiscal Services and Restitution Collection Section. The first step in the process is the preparation of the Feasibility Study Report (FSR). The VCGCB has prepared a Request for Offer (RFO) to acquire consulting services to assist with the development of a FSR which is a requirement. The FSR will document feasibility, business and technical requirements in accordance with DGS Statewide Administrative Manual, Section 4800 and with California Technology Agency SIMM Section 20.

The Executive Officer reported that a budget of \$80,000.00 was approved for this effort and the RFO would be released in May 2012. The VCGCB anticipates verification, evaluation, and final selection of the successful bidder would be completed in late June 2012.

The Board voted to delegate Executive Officer Nauman the authority for final approval of the contract.

Request for Offer for the VCGCB CaRES Modification Project

The VCGCB will release a Request for Offer (RFO) to obtain database development, application architecture, and web application development services for the continuation of the CaRES Modification Project (CaRES Mod). CaRES Mod is an ongoing effort that was initiated in June 2010 and the contract that may be awarded from the RFO is for the completion of the tasks associated with this effort. The Project requires highly specialized and highly technical development expertise due to the complexity level of the effort.

The Executive Officer reported that the California Technology Agency approved a budget of \$1.6 million for this effort and the RFO would be released in May 2012. The VCGCB anticipates verification, evaluation, and final selection of the successful bidder would be completed in late June 2012.

The Board voted to delegate Executive Officer Nauman the authority for final approval of the contract.

Request for Offer for the VCGCB Infrastructure Support Services for the CaRES Modification Project

The VCGCB will release a Request for Offer (RFO) to obtain consulting services for the mission critical task of implementing the infrastructure for the CaRES Modification Project (CaRES Mod). The RFO is for a highly skilled consultant with specialized expertise in infrastructure implementation to ensure that the complex migration from the existing architecture to the remodeled architecture occurs successfully and to ensure that the security of the CaRES Mod network is compliant with best practices.

The Executive Officer reported that a budget of \$120,000.00 has been approved for this effort and the RFO would be released in May 2012. The VCGCB anticipates verification, evaluation, and final selection of the successful bidder would be completed in late June 2012.

The Board voted to delegate Executive Officer Nauman the authority for final approval of the contract.

Item 5. Legislative Update

Jon Myers, Deputy Executive Officer, Legislation and Public Affairs Division, reported the following:

- AB 1531 (Fuentes), the VCGCB's first of two Government Claims bills of 2012, appropriates \$859,738.51 to pay 273 claims approved by the Board from June 2011 through December 2011. The bill is currently in the Senate Appropriations Committee waiting to be heard. Mr. Myers reported that the second Government Claims Bill has not been introduced yet.
- SB 1299 (Wright), relating to compensation for victims of crime, has gone through numerous changes. The bill has been amended and now provides that changes to CalVCP maximum rates and service limitations will not apply to expenses incurred within three months after adoption. It also includes technical changes to CalVCP statutes. The bill is currently in the Senate Appropriations Committee.
- SB 1210 (Lieu), relating to the collection of restitution fines, enhances restitution collection authority for local jurisdictions to address the implementation of public safety realignment. The bill is currently on suspense. The suspense hearing will be held on May 24.
- SB 1371 (Anderson), relating to victim restitution fines, prohibits restitution fines and orders owed by offenders from being converted into prison time served. The bill is currently on the Senate Floor.
- AB 1157 (Nielsen), relating to payment of claims, restores a provision that was briefly implemented and later repealed in 2011 through budget trailer bill language. The provision requires VCGCB to notify the Legislature prior to allowing a government claim of \$500,000 or more to be paid from a current year appropriation for prior year costs. It also applies to multiple claims totaling \$500,000 or more in one year by a single vendor against a single department. The bill is in the Senate Judiciary Committee.
- SB 1504 (Kehoe), relating to claims and judgments against the State, provides that no interest will accrue on a claim against the state which VCGCB submits to the Legislature and for which an appropriation is made until 180 days after enactment of the appropriation. The bill also affects settlement and judgment claims submitted to the Legislature by the Attorney General. The bill is in the Assembly Appropriations Committee.

Item 6. Consideration of Organizational Applications for the 2012 California State Employees' Charitable Campaign

Anita Ahuja, Manager, Legislation and Public Affairs Division, explained that each year the Victim Compensation and Government Claims Board (VCGCB) certifies the eligibility of charitable, non-profit organizations to receive contributions through the annual California State Employees' Charitable Campaign (Campaign) and selects organizations to manage the Campaign in various regions throughout the state. Three types of organizations participate in the Campaign: Principal Combined Fund Drive (PCFD) agencies, PCFD-affiliated (affiliated) member organizations, and non-PCFD-affiliated (non-affiliated) organizations. PCFD agencies are responsible for publishing and distributing Campaign brochures and pledge forms and are also responsible for transmitting contributions to designated charities.

The Board is responsible for approving applications and administering various aspects of the annual Campaign. All PCFD agency applicants, affiliated applicants, and non-affiliated applicants recommended for approval certified that they are (1) tax-exempt under section 501(c)(3) of the United States Internal Revenue Code and 23701d of the California Revenue and Taxation Code and (2) in compliance with the California Fair Employment and Housing Act, Part 2.8 (commencing with § 12900 of the Act).

Ms. Ahuja reported that Government Regulation section 633.9 (a) (7), adopted by the Board last year, states that "[a] written justification for any combined fundraising and administrative costs above 14 percent exclusive of State Controller fees" is required.

She explained that for the 2012 Campaign, 38 PCFDS were recommended for approval and requested the following administrative fees: 35 requested 15%; 2 requested 14%; and 1 requested 0%. Written justification was provided by the 35 PCFDS requesting a 15% administrative fee. All justifications stated, in part, that the 15% administrative fee included the 0.57% VCGCB fee required by the new government regulation. Therefore, the actual fee the PCFDs would receive is 14.43%.

The Board voted to approve the following applications to participate in the 2012 California State Employees' Charitable Campaign: 38 PCFD agencies; 1,400 PCFD-affiliated organizations; and 1,408 non-affiliated organizations.

Item 7. Government Claims Program
Consent Agenda (Nos. 1- 282)

The Board adopted the staff recommendations for item numbers 1-282, with the following exceptions: item numbers 78 (597597), 135 (602693), and 257 (600789) were removed to allow the claimants an opportunity to address the Board; item numbers 76 (596108), 105 (601509), and 267 (602801) were removed; and item number 131 (602629) was withdrawn by the claimant.

Consent Agenda Appearance

Item 78, G597597

Claim of Dev Patel

Dev Patel, claimant, appeared and addressed the Board. Lisa Halko appeared on behalf of the California Department of Corrections and Rehabilitation.

Jackie Tinetti, Manager, Government Claims Program, explained that Mr. Patel requested compensation in the amount of \$6,252.00 plus interest from the California Department of Corrections and Rehabilitation (CDCR) for back pay from the period January 15, 2009, through July 28, 2009, that he alleged he would have received if he were hired as an Associate Governmental Program Analyst (AGPA).

Ms. Tinetti stated that CDCR recommended that the claim be rejected. The Department of Personnel Administration deferred to the State Personnel Board because appointments fall under their jurisdiction. The State Personnel Board stated that it had no legal or financial responsibility regarding the claim.

Ms. Tinetti stated that the GCP staff reviewed the claim and determined that it was complete and timely pursuant to Government Code sections 910 and 911.2. Based on its review of the claim and CDCR's recommendation to reject the claim, GCP staff recommended that the claim be rejected as the claimant failed to establish State liability in the matter.

Mr. Patel explained that when he interviewed for a position at CDCR in 2008, the manager explained that the position was an SSA/AGPA and it was budgeted for an AGPA. He stated that he was told that if he accepted the SSA position, after six months and upon taking and passing the AGPA examination, he would be promoted to an AGPA. Six months later, he took the AGPA examination and scored in Rank 1; however, he stated that CDCR denied him the position of AGPA. He filed an appeal with the State Personnel Board Appeal Division, which found that he met the minimum qualifications required for the AGPA classification. Mr. Patel stated that because CDCR would not promote him to an AGPA, he applied for positions outside of the department and was hired as an AGPA at a different department. He stated that after six months of working with the department, he received good evaluations.

The Board voted to adopt the staff recommendation to reject the claim.

Consent Agenda Appearance

Item 135, G602693

Claim of Reuben Martinez

Reuben Martinez, claimant, failed to appear. In lieu of her appearance, Olivia Sanders, attorney and the claimant's representative, submitted a written justification to allow the claim. Peter Ackaret appeared on behalf of the California Department of Transportation.

Jackie Tinetti, Manager, Government Claims Program, explained that Reuben Martinez requested payment from the California Department of Transportation (Caltrans) in the amount of \$6,228.20 for attorney's fees and costs associated with his deposition taken on October 17, 2011.

Ms. Tinetti stated that Caltrans recommended that the claim be rejected. The Government Claims Program (GCP) staff reviewed the claim and determined that it was complete and timely pursuant to Government Code sections 910 and 911.2. Based on its review of the claim and the recommendation from Caltrans, GCP staff recommended that the claim be rejected as the claimant failed to establish liability on the part of the State.

The Board voted to adopt the staff recommendation to reject the claim.

Consent Agenda Appearance

Item 257, G600789

Claim of Faith LeBlue

Faith LeBlue, claimant, appeared and addressed the Board. Ms. LeBlue provided the Board with a binder that contained photographs of her home and information in support of her claim. There was no representation provided by the Contractors State License Board.

Jackie Tinetti, Manager, Government Claims Program, explained that Faith LeBlue requested payment from the Contractors State License Board (CSLB) in the amount of \$90,000.00 for poor

workmanship and incomplete repair work done on her home by All Seasons Construction licensed by the CSLB.

Ms. Tinetti stated that the Attorney General's Office recommended that the late application be denied for failure to meet the criteria required in Government Code section 911.6. The GCP staff determined that the claim was not timely pursuant to Government Code sections 910 and 911.2. Based on review of the facts and the recommendation of the Attorney General's Office, GCP staff recommended that the late application be denied pursuant to Government Code section 911.6.

Ms. LeBlue explained that she spent a considerable amount of time attempting to locate the contractor who worked on her home and later discovered that he deceived another couple prior to working for her. She stated that the CSLB gave the contractor a new license while he was working on her home and did not notify her. She filed a complaint with the CSLB alleging that the contractor walked away from the job without the City of Oakland signing off on the final home inspection. Her complaint was heard at a mandatory CSLB arbitration hearing wherein she was granted \$3,000. She stated that the amount awarded was unfair because it would not cover the costs to repair her home, as she paid the contractor nearly \$107,000. She subsequently submitted a grievance to the CSLB Arbitration Program regarding the outcome of the arbitration. The CSLB Arbitration Program concluded that the arbitrator's decision was final and binding on both parties and if the claimant wished to dispute the arbitrator's decision, she could appeal the decision in court.

Ms. LeBlue stated that the CSLB process was very time consuming. She stated that it took several months to obtain the information needed by the CSLB. Ms. LeBlue explained that in an effort to get the information, she had to write several letters to various entities and make many telephone calls, which is the reason that she missed the deadline to file her government claim.

Chairperson Lopez thanked Ms. LeBlue for taking time to attend the meeting.

Board member Ramos stated that Ms. LeBlue did a great job preparing for the meeting and stated that more work needs to be done to protect consumers. Further, he stated that he would move the staff recommendation to deny the late application.

The Board voted to adopt the staff recommendation to deny the late application.

Item 8. Claim of UCI Pathological Referral Services

Claim Number G597795

Jackie Tinetti, Manager, Government Claims Program, explained that UCI Pathological Referral Services requested payment in the amount of \$110,221.42 for inpatient pathology services provided to the California Department of Mental Health for the period of January 2008 to June 2008.

Ms. Tinetti stated that the California Department of Mental Health recommended that the claim be allowed in the amount of \$110,221.42, under authority of Government Code section 965 (agency pay). Further, GCP staff reviewed the claim and determined that it was complete and timely, pursuant to Government Code sections 910 and 911.2. UCI Pathological Referral Services provided satisfactory services to the California Department of Mental Health and has not been compensated. Based upon consideration of the facts and the parties' mutual desire to settle the matter through Board action, GCP staff recommended that the claim be allowed in the amount of \$110,221.42, under authority of Government Code section 965 (agency pay).

The Board voted to adopt the staff recommendation to allow the claim in the amount of 110,221.42.

Item 9. Claim of Daniel Stadtler
Claim Number G598547

Jackie Tinetti, Manager, Government Claims Program, explained that Daniel Stadtler requested compensation from the California Department of Food and Agriculture (CDFA) in the amount of \$1,484.51. The total claimed amount reflected \$933.12 for the amount he stated his cattle were undervalued and \$551.39 for service fees he was charged by the livestock market when his cattle were sold without his consent.

Ms. Tinetti stated that CDFA recommended the claim be partially allowed in the amount of \$551.39 under authority of Government Code section 965 (agency pay). Conversely, the Government Claims Program (GCP) staff recommended that the claim be partially allowed in the amount of \$933.12 under authority of Government Code section 965 (agency pay).

On December 17, 2010, five of Mr. Stadtler's cattle were sold at the Escalon Livestock Market (Escalon) without his permission because CDFA brand inspectors failed to properly inspect the steers and locate his brand. On December 29, 2010, Escalon compensated Mr. Stadtler in the amount of \$1,465.51, a rate of \$83.00 per hundredweight for the cattle, minus service fees totaling \$551.39. Mr. Stadtler alleged that his cattle were worth a rate of \$121.40 per hundredweight.

Ms. Tinetti explained that the Board previously discussed Mr. Stadtler's claim at its meeting on March 15, 2012. At the meeting, Mr. Stadtler provided the GCP with two receipts from purchases of the same type of cattle at different times to support the price he believed his cattle were worth. The Board voted to continue the matter in order for the parties to reach resolution.

CDFA reviewed the receipts and indicated that it would be willing to compensate Mr. Stadtler in the amount of \$551.39 for the service charges applied by Escalon. GCP staff reviewed the receipts which showed rates of \$130.00 and \$123.00 per hundredweight and appeared to sufficiently validate Mr. Stadtler's assessment that his cattle were worth \$121.40 per hundredweight. The difference between Mr. Stadtler's expressed value and the amount paid by Escalon totals \$933.12. Therefore, based on the facts of the claim, GCP staff recommended that the claim be partially allowed in the amount of \$933.12 under authority of Government Code section 965 (agency pay).

The Board voted to adopt the staff recommendation to partially allow the claim in the amount of \$933.12.

Item 10. Claim of Porterville Sheltered Workshop
Claim Number G600204

John Nash, claimant, appeared. Cassie Swords appeared on behalf of the California Department of Transportation (Caltrans).

Jackie Tinetti, Manager, Government Claims Program, explained that Porterville Sheltered Workshop (PSW) requested payment in the amount of \$105,045.96 for maintenance services provided to Caltrans from November 1, 2010, through January 31, 2011. PSW also requested payment from Caltrans in the amount of \$74,517.71 for late payment penalties on invoices dated from August 31, 2009, through October 31, 2010, and February 28, 2011, through May 31, 2011. PSW sought a total amount of \$179,563.67.

Ms. Tinetti stated that Caltrans recommended that the claim be partially allowed in the amount of \$105,045.96 under authority of Government Code section 965 (agency pay). The Government Claims Program (GCP) staff recommended that the claim be partially allowed in the amount of \$105,045.96, plus legally applicable penalty and interest charges to be determined by the State Controller's Office, under authority of Government Code section 965 (agency pay).

The Board voted to adopt the staff recommendation to partially allow the claim in the amount of \$105,045.96.

Item 11. Claim of San Diego State University Research Foundation
Claim Number G600716

Michele Goetz, Associate Executive Director, San Diego State University Research Foundation, acknowledged and thanked the following Government Claims Program staff for their assistance: Sally Tuggle, Tamrah Bursato, and Nick Wagner.

Jackie Tinetti, Manager, Government Claims Program, explained that San Diego State University Research Foundation requested payment in the amount of \$321,748.92 from the California Department of Public Health (CDPH) for delivered services under contract on behalf of the childhood injury prevention program.

Ms. Tinetti stated that the CDPH recommended that the claim be allowed in the amount of \$321,748.92 under authority of Government Code section 965 (agency pay). Government Claims Program Staff recommended that the claim be allowed in the amount of \$321,748.92 under authority of Government Code section 965 (agency pay).

The Board voted to adopt the staff recommendation to allow the claim in the amount of \$321,748.92.

Item 12. Claim of Juan G. Garza II
Claim Number G602123

Jackie Tinetti, Manager, Government Claims Program, explained that Juan Garza, acting as an agent of the City of Sanger, requested payment in the amount of \$121,833.00 for gang intervention work provided to the California Emergency Management Agency (Cal EMA).

Ms. Tinetti stated that Cal EMA did not dispute the claim and stated that the service was provided; however, Cal EMA was unable to pay because the claim for reimbursement was received on July 5, 2011, and the appropriation liquidation period ended on June 30, 2011. Cal EMA's only recourse to pay the claim was to request that the Board allow the claim under authority of Government Code section 905.2(b)(4) (legislative pay).

The Government Claims Program staff recommended that the claim be allowed in the amount of \$121,833.00 under authority of Government Code section 905.2(b)(4) (legislative pay).

The Board voted to adopt the staff recommendation to allow the claim in the amount of \$121,833.00.

Item 13. Claim of Community Hospital of San Bernardino
Claim Number G602956

Jackie Tinetti, Manager, Government Claims Program, explained that Community Hospital of San Bernardino (CHSB) requested payment from the Department of Mental Health (DMH) in the amount of \$297,733.08 for laboratory services provided to Patton State Hospital during the period of July 1, 2011, through November 30, 2011.

Ms. Tinetti stated that the DMH recommended that the claim be partially allowed in the amount of \$264,508.53 under authority of Government Code section 965 (agency pay). Government Claims Program (GCP) staff recommended that the claim be partially allowed in the amount of \$264,508.53 under authority of Government Code section 965 (agency pay).

The Board voted to adopt the staff recommendation to partially allow the claim in the amount of \$264,508.53.

Item 14. Applications for Discharge From Accountability for Collection

The item was removed from the agenda.

Item 15. Claim of Connie R. (Pen. Code, § 4900 et seq.)

Connie R., claimant, failed to appear. Michael Farrell, Supervising Deputy Attorney General, appeared on behalf of the California Department of Justice, Office of the Attorney General.

Wayne Strumpfer, VCGCB Chief Counsel, explained that Connie R.'s claim involved a conviction of a sex crime in Kentucky. Connie R. entered a guilty plea in Kentucky state court to "facilitating sodomy, first-degree" as defined by section 506.080 of the Kentucky Revised Statutes.

Connie R. moved to California during her probationary period, as allowed by an interstate compact between Kentucky and California. Her California probation officer informed her that the Kentucky conviction required her to register as a sex offender in California. Connie R., however, refused to register as a sex offender.

Connie R. was charged with a felony for failure to register as a sex offender and was sent to prison. Connie R. later appealed her conviction. She contended that she pled guilty to failing to register as a sex offender that, as a matter of law, this was a crime that she did not commit. The Court of Appeal, Third Appellate District, agreed with her. The Court explained that an out-of-state conviction required a defendant to register in California only when (1) the foreign jurisdiction requires registration (with five exceptions) or (2) the least adjudicated elements of the offense satisfy all of the elements of a registerable crime as listed in Penal Code section 290, subdivision (c). In this case, Connie R. had not been required to register in Kentucky and the elements of the Kentucky conviction did not satisfy the elements of any of the crimes listed in section 290, subdivision (c). Thus, Connie R. was not required to register as a sex offender in California.

Mr. Strumpfer stated that the hearing officer determined that because Connie R. knowingly and willingly entered a guilty plea to a felony, it was determined by a preponderance of the evidence that she had not proven that she did not, by any act or omission on her part, intentionally contribute to the bringing about of her arrest or conviction for the crime. Further, Mr. Strumpfer stated that the hearing officer recommended that the Board deny Connie R.'s claim under Penal Code section 4900.

The Board voted to adopt the hearing officer's recommendation to deny the claim.

Item 16. Claim of Shannon Strider (Pen. Code, § 4900 et seq.)

Shannon Strider, claimant, failed to appear. Michael Farrell, Supervising Deputy Attorney General, appeared on behalf of the California Department of Justice, Office of the Attorney General.

Wayne Strumpfer, VCGCB Chief Counsel, explained that Mr. Strider's claim involved the police observing Mr. Strider with a gun outside a known gang house. Deputies were on routine patrol in Compton in a Los Angeles County Sheriff's Department vehicle. One of the deputies observed Mr. Strider and another man standing in a fenced front yard near the porch of a single-family residence. A wrought iron fence ran along the entire front and east side of the property, connecting with a solid wood fence. There was a gate in the middle of the wrought iron fence. To enter the house via the front door, one had to pass through the gate. The deputy saw a third man enter the yard and stand next to the open gate. The deputy did not know Mr. Strider or the other two men, but he was aware that the house was a known Southside Crip gang hang out and that the owner of the residence produced rap music. The deputies also knew that there had been prior shootings in the area of this residence.

Mr. Strider looked directly at the deputies, turned to his right, and quickly walked to the front door of the residence. When Mr. Strider turned, the deputy saw the butt or handle of a chrome and black handgun protruding from Mr. Strider's left rear pants pocket. The deputy immediately got out of his patrol car and ran after Mr. Strider. Mr. Strider went into the house and slammed the front security door. The deputy opened the door and saw Mr. Strider walking quickly towards the kitchen. When the deputy told him to stop, Mr. Strider dropped a baggie on the kitchen floor before he complied with the deputy's demand. The deputy retrieved a loaded, chrome and black .40-caliber, semiautomatic handgun from Mr. Strider's left rear pocket and also recovered the baggie that contained a substance resembling rock cocaine.

Mr. Strider was convicted and a jury found that he was guilty of possession of cocaine base while armed with a loaded, operable firearm. The jury also found that Mr. Strider was not guilty of carrying a loaded firearm in a public place. The trial court sentenced Mr. Strider to two years in state prison.

The Second District Court of Appeal reversed Mr. Strider's conviction on Fourth Amendment grounds. Specifically, the Court of Appeal determined that the area inside a fenced front yard and porch is not a public place within the meaning of Penal Code section 12031. Because law enforcement otherwise lacked a reasonable suspicion that criminal activity involving Mr. Strider was afoot, the detention was unreasonable under the Fourth Amendment, as was the subsequent warrantless, uninvited entry into the house. Since the cocaine base and loaded firearm were found during the warrantless entry into the house, those items of evidence should have been suppressed as "fruit of the poisonous tree." However, the Court of Appeal did not determine that Mr. Strider was innocent of the crime of possessing cocaine base while armed with a loaded, operable firearm.

Mr. Strumpfger stated that the hearing officer determined that Mr. Strider had not met his burden in proving by a preponderance of the evidence that he did not commit the crime for which he was arrested and convicted. The fact that Mr. Strider's conviction was overturned on appeal due to a Fourth Amendment violation had no collateral effect on this proceeding. The Court of Appeal decided a legal question and held that the evidence that was used against Mr. Strider in his criminal trial was inadmissible because it was "fruit of the poisonous tree." However, the Court of Appeal refrained from making a finding that Mr. Strider was innocent of the crime of possessing a controlled substance while armed with a loaded and operable firearm.

Mr. Strumpfger further stated that Mr. Strider also had not met his burden in proving by a preponderance of the evidence that he did not, by any act or omission on his part, intentionally contribute to the bringing about of the arrest or conviction for the crime with which he was charged. He stated that the hearing officer recommended that the Board deny Shannon Strider's claim under Penal Code section 4900.

The Board voted to adopt the hearing officer's recommendation to deny the claim.

Victim Compensation Program

The Board commenced the Victim Compensation Program portion of the meeting at 10:35 a.m.

Request for Approval to Resubmit the CalVCP Regulations Rulemaking Record to the Office of Administrative Law (tit., § 649.32)

Wayne Strumpfger, VCGCB Chief Counsel, explained that in March 2011, the California Victim Compensation and Government Claims Board (Board) authorized the California Victim Compensation Program (CalVCP) to proceed with regulatory action to implement Program changes adopted by the Board in February. At its May 2011 meeting, the Board authorized the CalVCP to

file regulatory actions modifying the income and support loss regulation, Rule 649.32, with the Office of Administrative Law (OAL). The modifications included the following:

- Specifying forms of acceptable evidence of income or support loss to provide a more accurate assessment of financial need
- Clarification of CalVCP verification of acceptable evidence of income or support loss
- Clear language detailing what type of practitioner can provide a medical disability statement, how CalVCP verifies the disability statement, and what resources are used to do so
- Removing language regarding the opportunity to be compensated for future employment

Mr. Strumpf reported that the Board continued consideration of the proposed verification of income or support loss regulation so that staff could perform additional research. He stated that the CalVCP now requested authorization to file the rulemaking record for the proposed verification of income or support loss regulation with OAL. The specific purpose of this regulatory action is to improve verification methods and prevent payment on fraudulent income and support loss claims under CalVCP.

Mr. Strumpf explained that after receiving Board approval to proceed with the proposed regulatory action, CalVCP filed all of the proposed regulations and the Initial Statement of Reasons with OAL. Notice of the Rulemaking Action was published on March 18, 2011. The Notice was sent out to all interested parties and placed on the VCGCB website. CalVCP held a public hearing on the proposed regulations on May 5, 2011. CalVCP carefully considered the written and oral comments on the proposed regulations and prepared a response to those comments. After submitting the rulemaking record to OAL, CalVCP was notified that the verification of income or support loss regulation, as it was then written, lacked specificity and clarity in its language. Upon OAL's recommendation, the regulation was withdrawn from the rulemaking record so that further consideration of the regulation could be considered. CalVCP modified the language so that it was more specific in identifying acceptable evidence of income or support loss. In addition, CalVCP better clarified its own verification process when reviewing the evidence provided. CalVCP then conducted a follow up 15-day public comment period. No comments were received during the follow up comment period. The rulemaking record was then submitted to OAL for review and approval. OAL, again, did not approve the rulemaking record with the language in its current state and on April 11, 2012, CalVCP was notified that the rulemaking record was disapproved. OAL asked CalVCP to make a few more minor changes, mostly non-substantive, and CalVCP complied. Based on this consideration, CalVCP recommended that the Board proceed with the proposed regulatory action as currently drafted.

Further, Mr. Strumpf recommended that the Board adopt the staff recommendation to adopt the proposed regulation and authorize the Executive Officer to file the rulemaking record with OAL for its review and approval.

The Board voted to adopt the proposed regulation and authorize the Executive Officer to file the rulemaking record with OAL for its review and approval.

Disqualification of a Provider of Medical and Mental Health Services

Kevin Kwong, VCGCB Staff Counsel, explained that the California Victim Compensation and Government Claims Board (Board) may provide mental health services to victims of qualifying crimes. He stated that the Board works closely with mental health therapists who then submit billing statements to the Board to receive reimbursement for the treatment provided to the victim.

Mr. Kwong explained that in March 2012, CalVCP staff concluded its audit and investigation against George Sachs, Psy.D (Dr. Sachs), owner/operator of the Sachs Institute. Findings showed that

Dr. Sachs submitted bills for services that were never rendered, billed in excess of actual session length, and has made other representations that cast doubt on the credibility of his billing and services. It was determined that Dr. Sachs has been overpaid in the amount of \$24,485.00 due to this erroneous billing. The staff recommended that the Board disqualify Dr. Sachs and the Sachs Institute as being eligible to receive Board compensation for providing medical and mental health services to victims and collect the overpayment.

The Sachs Institute is a nonprofit mental health facility located in New York, NY. The facility also does business as Potato Sprout, a nonprofit organization, with locations in Chicago, IL, and Hermosa Beach, CA. Dr. Sachs is the owner/operator and president of the Sachs Institute and Potato Sprout, respectively. Dr. Sachs supervises interns via telephone and video conferencing in his New York office while the interns provide in-home services to qualified crime victims in Los Angeles.

The Board's Office of Audits and Investigations reviewed the treatment of applicants who treated with Dr. Sachs and his mental health facility. In nine cases, it was discovered that Dr. Sachs submitted bills for services that were never rendered and/or billed in excess of actual session length. Some of the findings included:

- The Sachs Institute billed the Board for 18 mental health sessions with minors R.Q. and E.Q; however, the mother of these children stated that each child only attended one therapy session.
- An MFT working for the Sachs Institute billed the Board for 64 treatment sessions, totaling 74 hours in length, for treatment with a family consisting of two minor applicants and one adult applicant. According to the mother of the two minors, treatment for the minors lasted approximately 25 to 30 minutes a session. The adult applicant stated that his treatment was less than 90 minutes long.
- The Sachs Institute billed the Board for five sessions at two hours each for victim K.P. According to the applicant's mother, each session was no more than an hour.
- Requests to the Sachs Institute for verification of dates of service billed on the applications in question have not been returned.
- In total, \$24,485.00 in overpayments have been made to Dr. Sachs.

Mr. Kwong stated that according to Dr. Sachs' attorney, interns in Los Angeles reported to manager Iris Magallanes. After services were rendered, Ms. Magallanes prepared spreadsheets containing the length and number of therapy sessions provided to applicants. Dr. Sachs relied upon these spreadsheets when submitting bills to the Board. Dr. Sachs was not aware of the alleged discrepancies until he was notified by the Board. He has attempted to obtain treatment notes from these therapy sessions, but they have not been provided to him by Ms. Magallanes. Additionally, Dr. Sachs believed the discrepancies in therapy session length is due to interns billing for time while at the applicant's home building a rapport and gathering additional information but not conducting actual therapy sessions.

In addition to the billing discrepancies, there are concerns about the credibility of the Sachs Institute. The Sachs Institute and Potato Sprout have given the Board a total of four business addresses in New York and California. However, none of the addresses is linked to a mental health facility. The most recent billing address given to the Board is a mailbox office located in Los Angeles. Additionally, there is an Internet website for a Sachs Center that features Dr. Sachs; however, the address listed on the website matched the address for a business that is not affiliated with Dr. Sachs or the Sachs Institute. Finally, multiple fax numbers were used to submit billing statements to the Board. The fax numbers are public places of business located in a Federal Express, Hallowell Center, Manhattan Mailroom, UWS Copy, and Villa Pharmacy.

In comparing documents submitted to the Board, signatures from Dr. Sachs do not match. The staff examined Dr. Sachs' signatures from billing statements, a canceled warrant, and an Additional Treatment Plan (ATP). All documents were allegedly signed by Dr. Sachs but all signatures were clearly different. Additionally, a therapist who works for the Sachs Institute signed various treating documents but the signatures on the documents do not match.

In response, Dr. Sachs's attorney stated that Dr. Sachs signed billing statements and warrants; however, in order to expedite ATP documents, he signed for a treating therapist which he regretted making that business decision.

Mr. Kwong stated that staff recommended that the Board permanently disqualify Dr. Sachs and the Sachs Institute from being eligible to receive Board compensation. Even if the Board believed that Dr. Sachs did not intentionally commit fraud against the Board, Dr. Sachs was careless and did not perform an adequate job as a supervisor of interns. There were errors in the billing for treatment sessions and length of treatment on nine applications. Dr. Sachs, as the supervisor of these interns and owner of the Sachs Institute, allowed these errors to occur. He did not verify that the amount billed was equal to the amount of treatment provided. Additionally, the manager of these interns has ignored requests and has not submitted session notes. Due to the number of bills and applications these errors occurred on, Dr. Sachs has shown that he did not adequately perform his job as a supervisor and that any future bills from him and the Sachs Institute may not be accurate.

There were also concerns regarding the honesty and credibility of Dr. Sachs and the Sachs Institute. Four addresses given to the Board do not link with a mental health facility. On a website featuring Dr. Sachs, the listed business address is for a business that is not affiliated with Dr. Sachs or the Sachs Institute. Finally, documents were faxed to the Board from various numbers at various public fax locations, such as copy centers and pharmacies, rather than a place of business.

Additionally, there was concern over Dr. Sachs' signature. Based on the clear discrepancies in documents received by the Board, Dr. Sachs did not appear to be signing all the documents he submitted despite his name being on the signature line. Dr. Sachs also admitted to signing an ATP for a therapist.

Mr. Kwong stated that in response to the CalVCPs notice sent to Dr. Sachs outlining its findings against Dr. Sachs, Dr. Sachs stated that he relied on his interns and supervising managers and he was unaware of the discrepancies in billings.

Mr. Kwong stated that due to Dr. Sachs and the Sachs Institute's carelessness and lack of adequate supervision, the Board should disqualify Dr. Sachs and the Sachs Institute as being eligible to receive Board compensation. Further, Mr. Kwong recommended that the Board adopt the staff recommendation to (1) permanently disqualify Dr. Sachs and the Sachs Institute as an authorized provider of mental health services to eligible claimants of the California Victim Compensation Program and (2) collect the \$24,485.00 overpayment made to Dr. Sachs and the Sachs Institute.

Mr. Kwong stated that Dr. Sachs, through his attorney, agreed to both of the staff recommendations.

The Board voted to adopt the staff recommendations. Further, the Board directed staff to report their findings regarding Dr. Sachs and the Sachs Institute to the Board of Behavioral Sciences.

Closed Session

Pursuant to Government Code section 11126(c)(3), the Board adjourned into Closed Session with the Board's Executive Officer and Chief Counsel at 10:39 a.m. to deliberate on the proposed decisions numbers 1-198.

Open Session

The Board reconvened into open session at 10:46 a.m. The Board voted to adopt the proposed decisions for numbers 1-198, with the exception of the following: item number 27 was amended to correct a clerical error in the application number. The correct application number is A10-2893022; and item numbers 116 (A11-3287984) and 174 (A10-2488443) were removed.

The Board meeting adjourned at 10:46 a.m.